Document No. 4475
Voted at Meeting of 7/12/84

5A

M E M O R A N D U M July 12, 1984

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ROBERT J. RYAN, DIRECTOR

SUBJECT: CHARLESTOWN URBAN RENEWAL PROJECT MASS. R-55
LEASE COMMENCEMENT AGREEMENT FOR BUILDINGS 149 AND 199

In its vote of December 28, 1983, tentatively designating The Congress Group, Inc. as redeveloper of Buildings 149 and 199, the Authority authorized the Director to execute a Lease Commencement Agreement for such site incorporating the terms of such designation. Negotiations between the Authority and The Congress Group. Inc. have now been concluded on such Lease Commencement Agreement. Because the Lease Commencement Agreement has dealt with certain issues not contemplated by the Authority's prior vote relating to such Lease Commencement Agreement, the Authority is being asked to confirm the authority of the Director to execute such Lease Commencement Agreement.

The Lease Commencement Agreement presented to the Authority treats the following subjects in addition to those contemplated by the prior vote of the Board:

1. The schedule for the submission of design materials and the subsequent start of construction has been more fully integrated with the complex series of governmental permits, approvals and financing which this project requires.

2. The Lease Commencement Agreement responds to the need to ensure a demand for parking in Building 199 sufficient to make the rehabilitation and operation of Building 199 economically feasible by providing measures which will be taken to encourage the use of Building 199.

An appropriate vote confirming the authority of the Director to execute the Lease Commencement Agreement is attached.

VOTED: That the Director of the Authority be and hereby is authorized to execute and deliver on behalf of the Boston Redevelopment Authority a Lease Commencement Agreement with The Congress Group, Inc. for Buildings 149 and 199 in the Charlestown Navy Yard in substantially the form attached hereto with such changes thereto as the Director may deem necessary and appropriate.

7/10/84 Revisions

LEASE COMMENCEMENT AGREEMENT

BETWEEN

BOSTON REDEVELOPMENT AUTHORITY

AND

THE CONGRESS GROUP, INC.

BUILDINGS 149-199

CHARLESTOWN NAVY YARD

CHARLESTOWN, MASSACHUSETTS

This LEASE COMMENCEMENT AGREEMENT (this "Agreement") is made this _____ day of _____, 1984, by and between the Boston Redevelopment Authority, a public body politic and corporate organized under the laws of the Commonwealth of Massachusetts (the "BRA"), and The Congress Group, Inc., a Massachusetts corporation, (the "Developer").

WITNESSETH

Reference is made to the following facts:

A. Pursuant to a resolution adopted on December 28, 1983, the BRA tentatively designated the Developer as redeveloper of property known as Building 149 ("Building 149") and Building 199 ("Building 199") in the Charlestown Navy Yard (the "Site") in the Charlestown Urban Renewal Area, Project No. Mass R-55, in the City of Boston. Pursuant to the terms hereof and the terms of the Leases (as hereinafter defined) there will be designed, developed and maintained buildings, ground plane and other improvements (the "Improvements") upon the Site.

B. The tentative designation by the BRA is subject to the Developer's execution of a lease commencement agreement embodying requirements and pre-conditions for final designation, which final designation shall be simultaneous with the effective date (the "Lease Commencement Date") of one or more long-term ground leases, as may be determined by the BRA, of the Site (collectively the "Leases" and individually a "Lease") from the BRA to the Developer. This Agreement is the lease commencement agreement to which the tentative designation refers.

NOW, THEREFORE, in consideration of these presents and for other good and valuable consideration, it is hereby agreed as follows:

1. All actions of the Developer and the BRA hereunder shall be subject to and in conformity with the following materials (the "Transaction Documents") which are incorporated herein and made a part hereof and as to which this Agreement shall be supplementary except where a specific conflict exists, in which case this Agreement shall prevail. The Developer shall at all times proceed in accordance with the Transaction Documents and this Agreement. The Transaction Documents supersede all other documents or correspondence with respect to this redevelopment prior to the date hereof and consist of: a Resolution of the

BRA adopted December 28, 1983, entitled "CHARLESTOWN URBAN RENEWAL PROJECT (R-55) TENTATIVE DEVELOPER: DESIGNATION OF THE CONGRESS GROUP, INC., REDEVELOPER OF BUILDINGS 149 & 199 IN THE CHARLESTOWN NAVY YARD" together with the document entitled "Terms and Conditions for Tentative Designation of the Developer for Building 149/199," and the document entitled "Building 149/199 Lease Commencement Agreement Summary" all of which are attached hereto as Exhibit B.

2. The Developer agrees no later than the later of (i) one hundred and eighty (180) days from the execution hereof or (ii) sixty days following the date the BRA has approved or has been deemed to have approved of the Contract Documents, in either case subject to the extension by mutual agreement of the Developer and the BRA, or by automatic extension pursuant to the design review time table set forth in Paragraph 7 of this Agreement, or by automatic extension pursuant to Paragraph 10 of this Agreement, to perform all its obligations under this Agreement and to satisfy all conditions precedent to execution of the Lease or Leases established in this Agreement. The BRA, upon determining that the Developer has so performed and satisfied such conditions precedent, shall make a final designation of the Developer as redeveloper of the Site in accordance with its usual procedures. Simultaneously therewith, if the Developer shall not then be in default of any of its obligations hereunder, the Developer and the BRA shall execute the Lease or Leases and the date of execution shall be the "Lease Commencement Date." Whether or not such final designation has been made or the Lease or Leases then executed, the Developer shall commence the payment of rent as follows:

(a) for the three (3) month period commencing on the date two hundred seventy (270) days following the execution hereof, or until the execution of the Lease or Leases, whichever shall first occur, a monthly rent in an amount equal to fifty percent (50%) of the monthly base rent specified in the Transaction Documents payable in advance; and

(b) commencing upon the expiration of the period specified in paragraph (a) above, a monthly rent equal to the monthly base rent specified in the Transaction Documents payable in advance.

3. Forthwith after the execution of this Agreement, the parties shall enter into negotiations intended to result in the documents which are to become the Lease or Leases. The terms and provisions of the Leases shall be as similar as possible in the

circumstances to those contained in that certain ground lease executed by the BRA effective on September 29, 1983 with Marketplace Center Associates for a parcel of land known as Parcel D-10 at the corner of Commercial Street and State Street, Boston, except that appropriate modifications shall be made to reflect business or other terms unique to this transaction. The terms thereof shall be consistent with the terms and provisions of the Transaction Documents and this Agreement.

Notwithstanding any inconsistent provisions of the Transaction Documents:

(a) Any Lease for Building 149 shall provide for the payment of annual base rent in the amount of Three Hundred Ninety Thousand Dollars ($390,000.00) and for Building 199 shall provide for the payment of annual base rent in the amount of One Hundred Ten Thousand Dollars ($110,000.00), each of said rents to be subject to adjustment by the BRA and the Developer pursuant to Paragraph 10 of this Agreement. The percentage and additional rents as set forth in the Transaction Documents shall be incorporated in the respective Lease or Leases.

(b) The Lease for Building 199 shall provide that monthly passes, or other periodic method of charging for parking spaces in Building 199 may be used by the Developer (or any person engaged by the Developer to operate the parking facility in Building 199) and shall be made available on a "first come, first serve" basis, provided, however, that at least Five Hundred (500) spaces shall be available for use by persons other than tenants of Building 149 and employees, visitors and agents of tenants of Building 149 (unless otherwise determined by the BRA and the Developer on the basis of the parking needs of the non-residential portion of the Charlestown Navy Yard).

(c) The Developer may, at its option, schedule the construction of the Improvements so that Building 199 will be ready for occupancy at any time prior to or simultaneously with the time when Building 149 is ready for occupancy.

(d) The BRA and the Developer acknowledge and agree that it is intended that Building 199 be a principal parking facility for the Charlestown Navy Yard and that assurance of substantial demand for the parking spaces to be provided in Building 199 is necessary to the financing of the Building 199 portion of the Improvements. The BRA therefore represents, acknowledges and agrees that:

(i) when Building 199 is ready for occupancy, the Developer may post signs throughout the Charlestown Navy Yard and the entrances to the Charlestown Navy Yard directing vehicles to Building 199;

(ii) when Building 199 is ready for occupancy, the BRA shall take reasonable measures to discourage on-street parking in the Charlestown Navy Yard, such measures may include, without limitation, the installation of short-term parking meters operating six or seven days per week until 6:00 P.M.; and

(iii) when Building 199 is ready for occupancy, BRA hereby agrees that it shall not permit the development or operation of any additional parking facilities in the non-residential portions of the Charlestown Navy Yard, whether such parking facilities are surface lots or parking garage structures, without compliance of the following provisions:

(a') the parking garage developed and operated by the Developer in Building 199 shall have achieved financial stability, as hereinafter defined, for one (1) fiscal year. For the purpose of this Agreement, Building 199 shall be deemed to have achieved financial stability if such building, evaluated independently from Building 149, shall have made a payment of percentage rent to the BRA in accordance with the Transaction Documents in such fiscal year.

(b') the size of such proposed additional parking facilities shall be such size as the BRA reasonably determines is necessary to meet current and projected demand for parking. Such determination shall be submitted to the Developer for comment, but the determination of the BRA shall be conclusive.

(c') the BRA shall first offer to the Developer the opportunity to develop and operate such additional parking facilities on terms and conditions substantially similar to the terms and conditions upon which such opportunity would be offered to others.

(iv) All agreements made by the BRA with developers of other properties in the Historic Monument Parcel of the Charlestown Navy Yard shall require that any temporary surface parking lots authorized thereunder shall be closed and terminated upon the opening for business of the parking facilities in Building 199.

(e) if public funds are not available by the Lease Commencement Date or are insufficient for the construction of sidewalks, roadways and similar site work, the Developer shall nevertheless complete such work at its own expense, but shall be entitled to reimbursement of the amount in excess of One Hundred Thousand Dollars ($100,000.00) so expended by off-setting thereto all of the rental payments becoming due under the Lease or Leases until such reimbursement has been made. The Developer shall submit to the BRA a certificate prepared by a certified public accountant of the costs incurred in carrying out such site work.

4. It is the intention of the parties that prior to the Lease Commencement Date, and as a condition precedent to final designation by the BRA as referred to in Paragraph 2 hereof, the Developer shall prepare for the redevelopment of the Site in accordance with the procedures and the schedules set forth in this Agreement, and in general conformity with the Transaction Documents.

5. The sole obligations of the BRA hereunder shall be timely to perform its duties with respect to approvals required hereunder from the BRA, with respect to final designation and with respect to negotiation and execution of the Lease or Leases and the demise of title thereunder as required by Paragraph 6 and to cooperate fully with the Developer in efforts to obtain other approvals from the City of Boston and other governmental authorities including, without limitation, the United States Department of Housing and Urban Development. The BRA does not guaranty the issuance of any such other approvals. Consistent therewith, except as otherwise provided in Paragraph 6, the Site is to be delivered on the Lease Commencement Date in its then condition, "as is", it being agreed that, during the period of this Agreement, the Developer will have opportunity to examine the same in all respects (including subsurface conditions and

utilities). The BRA has made no representations or warranties of any kind with respect to such condition and the BRA shall have no obligation to do any work on or with respect to the Site, or the condition thereof.

6. On the Lease Commencement Date, as hereinafter defined, the BRA shall possess, shall demise to the Developer pursuant to the Lease or Leases, and thereafter maintain good and clear record and marketable title to the Site, free from all liens and

Page 6A ends here

encumbrances and free of all tenants and occupants, subject only to the following permitted exceptions:

a. Terms and provisions of the Charlestown Urban Renewal Plan, as amended, recorded with Suffolk Registry of Deeds at Book , Page .

b. Terms and provisions of the Deed from the General Services Administration of the United States of America to the Boston Redevelopment recorded with Suffolk Registry of Deeds at Book , Page .

c. [Historic Monument Transfer Agreement].

Without limiting the generality of the foregoing, the Developer shall have no obligation to pay relocation assistance to any licensee, tenant or occupant of the Site whose rights are terminated by the BRA in order to deliver title to the Site in compliance with this Paragraph 6.

The Developer shall cause an examination of title to the Site to be made and shall give notice to the BRA no later than thirty (30) days after the date hereof specifying the (i) the date and time through which such examination was made and (ii) any failure of the record title to the Site to comply with the requirements of this Paragraph 6. The Developer hereby waives its right to object to title defects of record as of the date and time of such examination and not so specified in Developer's notice. If Developer shall fail to give notice of such title examination to the BRA, the Developer shall waive its right to object to any such title defects of record on the date which is thirty (30) days after the execution hereof.

The BRA hereby covenants with the Developer that the BRA shall take no action nor permit a failure to act which would result in or cause the creation of a lien or encumbrance upon the Site or otherwise cause title to or condition of the Site to fail to comply with the requirements of this Paragraph 6.

If for any reason the status of title to the Site does not conform to the provisions of this Paragraph 6 on the date of final designation of the Developer as redeveloper of the Site (the "Final Desigation Date"), the Developer shall have the right to suspend further production of Design Materials and all dates for performance related thereto until such time as the BRA has caused the status of title to the Site to conform to the re-

quirements of this Paragraph 6. In the event of such failure to conform, the BRA shall remove any defect in title to or condition of the Site created or voluntarily incurred by the BRA and shall use its best efforts to remove any such defect in title to or condition of the Site suffered or involuntarily incurred by the BRA, to provide possession and title as provided in this Paragraph 6; provided, however, that the BRA shall not be obligated to expend more than Fifty Thousnd Dollars ($50,000.00) to remove defects suffered or involuntarily incurred in title to or condition of the Site. If at the time the BRA is required to expend sums hereunder for the purpose of curing defects in the status of title to the Site the Developer has not made payments pursuant to Paragraph 2 hereof in an amount at least equal to the amount necessary to effect such cure, the BRA may request that the Developer loan to the BRA the amount so required. If such loan shall be made by the Developer, it shall be repaid by application thereto of all rent payments to be made hereunder or under the Lease or Leases until paid in full. In the event that the BRA is unable to remove defects suffered or involuntarily incurred in the title to or condition of the Site, the Developer may elect to accept such title as the BRA can demise to the Site.

7. a. The Design Review Procedure attached to this Agreement as Exhibit C sets forth the formal stages of submissions and approvals of the Schematic Design, the Design Development, and the Contract Documents (collectively, the "Design Materials") for the Improvements to be constructed and installed by the Developer in the redevelopment of the Site. In the event that any provision of the Design Review Procedure shall be inconsistent with any other provision of this Agreement, then this Agreement shall prevail over such inconsistent provision; otherwise, the Design Review Procedure shall be treated as supplemental to this Agreement.

The scope of review by the BRA of Design Materials submitted in accordance with this Paragraph 7 and the Design Review Procedure shall not extend to the design or layout of interior spaces not visible by the general public, nor to structural, electrical, mechanical or plumbing designs except to the extent that the selection of any structural, electrical, mechanical or plumbing system impacts the design of exterior elements of the Improvements.

b. The BRA hereby acknowledges its receipt and approval of the Schematic Design for the Improvments, dated March 15, 1984, which Schematic Design fulfills all requirements established therefor by the Design Review Procedure, except for ground plane which was not included as part of such Schematic Design submission.

c. Within sixty (60) days after the date hereof the Developer shall submit to the BRA the Design Development for the Improvements (as described in the Design Review Procedure). The BRA shall review the Design Development for conformity with the approved Schematic Design and this Agreement and shall, within ten (10) business days after receipt thereof, either approve the Design Development or notify the Developer in writing of disapproval, specifying the respects in which the Design Development is disapproved.

In the event of a disapproval, the Developer shall, within thirty (30) days after the Developer receives the written notice of such disapproval, resubmit the Design Development altered in those respects specified by the BRA as the grounds for disapproval. The resubmission shall be subject to the review and approval of the BRA in accordance with the procedure hereinabove provided for an original submission, until the Design Development shall be approved by the BRA.

If the Developer receives no notification from the BRA of such disapproval within ten (10) business days after submission of the Design Development or any correction thereof, as the case may be, such Design Development or corrected Design Development shall be deemed approved.

d. Within one hundred twenty (120) days after the BRA has approved, or has been deemed to have approved, the Design Development, the Developer shall submit to the BRA the Contract Documents for the Improvements (as described in the Design Review Procedure) provided, however, that the Developer shall not be required to submit structural, electrical, mechanical or plumbing plans and specifications except to the extent that such systems impact the exterior elements of the Improvements. The BRA shall review the Contract Documents for conformity with the approved Design Development and shall, within ten (10) business days of receipt thereof, either approve the Contract Documents or notify the Developer in writing of disapproval, specifying the respects in which the Contract Documents are disapproved.

In the event of a disapproval, the Developer shall, within thirty (30) days after the Developer receives the written notice of such disapproval, resubmit the Contract Documents altered in those respects specified by the BRA as the grounds for disapproval. The resubmission shall be subject to the review and approval of the BRA in accordance with the Design Review

Procedure and the timetable hereinabove provided for an original submission, until the Contract Documents shall be approved by the BRA.

If the Developer receives no notification from the BRA of such disapproval within ten (10) business days after submission of the Contract Documents or any correction thereof, as the case may be, such Contract Documents or corrected Contract Documents shall be deemed approved.

e. The BRA hereby acknowledges that it is the intention of the Developer to undertake the Improvements in a manner which will qualify as the rehabilitation of a "certified historic structure" as defined in Section 48(g) of the Internal Revenue Code of 1954, as amended, which will require that the Secretary of Interior of the United States approve the Contract Documents for and the construction of the Improvements. The BRA hereby agrees that it shall administer the Design Review Procedure and the granting of approvals of Design Materials hereunder consistent with the requirements of said Secretary. In any case in which there shall be a conflict between the requirements of the BRA and the requirements of the Secretary of the Interior for approval, under Section 48(g) of the Internal Revenue Code, as amended, of the Design Materials or construction of the Improvements, and such conflict is not resolved within thirty (30) days after the Secretary of the Interior notifies the Developer of such requirements, the requirements of said Secretary shall govern and shall bind the BRA with respect to the items required by the Secretary of the Interior.

f. With respect to approvals of the BRA under Paragraphs 7 a. through 7 e. above, once approval has been given of a submission stage, further review will be limited to consideration of a development or refinement of the previously approved submission or to new elements which were not present in previous submissions.

g. The BRA acknowledges that the construction of the Improvements as shown in the Schematic Design requires the issuance to the Developer of federal, state and municipal permits and approvals, some of which may depend upon examination of various elements of the Project, including without limitation, environmental impacts not fully assessed on the date hereof. If the Developer is unable to obtain all such necessary permits and approvals for construction of such Improvements, the Developer shall redesign the Improvements to conform to any limitations or

conditions imposed by such environmental review or in any such permit or approval, and the BRA shall recognize any such limitation or condition in its response to submissions of Design Materials by the Developer hereunder. In the event any such resubmission is required, the times for performance of the Developer's obligations pursuant to this Agreement shall be extended for the periods of time required for the preparation of such resubmission.

h. If the approved Schematic Design, Design Development, or the Contract Documents for the Improvements shall be at variance with any development or dimensional controls of the Charlestown Urban Renewal Plan applicable to the Site, the BRA shall adopt such minor modifications to such plan as may be necessary to construct the Improvements in accordance with the approved Design Materials.

8. As part of its submission of Contract Documents, or prior to submission of completed Contract Documents but after approval or deemed approval of Design Development, the Developer may submit plans and specifications prepared by the Architect for purpose of commencing work with respect to certain elements of the Improvements which may include site work, interior demolition, foundation work and other similar items which the Developer proposes to commence on a "fast-track" basis. The BRA will promptly review said plans and specifications for "fast-track" construction and shall approve commencement of work on specific "fast-track" construction elements which are demonstrated to the satisfaction of the BRA to be consistent with those portions of the Design Materials previously approved and with elements of the Contract Documents, if any have then been submitted by the Developer, which are acceptable to the BRA. As a condition to proceeding with construction of any "fast-track" element, a copy of the construction contract for construction of such "fast-track" elements and a writing complying with the requirements of Paragraphs 12(a), (b) and (c) hereof, which provides for construction on a "fast-track" basis, shall be submitted by the Developer in advance to the BRA for its approval and the Developer shall meet the other requirements of Paragraph 11 below as applicable. In connection with the approval of "fast-track" construction elements, and notwithstanding any inconsistent provisions of the Transaction Documents, the BRA shall make a final designation of the Developer, the Lease or Leases shall be signed and the date of such execution shall be the Lease Commencement Date; provided, however, that approval of "fast-track" construction elements shall not waive the BRA's sub-

sequent rights with respect to review and approval of all Design Materials. Any construction prior to BRA approval of the Contract Documents shall be at the sole risk of the Developer with respect to costs of corrective or additional work (which may include demolition) to conform the work to the Design Materials approved by the BRA.

9. It is the general policy of the BRA that all buildings constructed or rehabilitated in urban renewal project areas shall be designed to accommodate persons who are physically handicapped. In furtherance of this policy, and without limiting the Developer's obligation to comply with all legal requirements applicable thereto, the Design Materials (including the Contract Documents) shall include provisions conforming, insofar as practicable, with the rules and regulations promulgated by the Architectural Barriers Board of the Commonwealth of Massachusetts, which rules and regulations, as amended from time to time, are hereby incorporated herein by reference. The BRA shall take into consideration the provisions and objectives of such rules and regulations in its review of and action upon the Design Materials (including Contract Documents).

10. It is understood and agreed that the Developer intends to finance the portion of the Improvements in Building 199 with proceeds of industrial revenue bonds ("IRBs") issued by the Massachusetts Industrial Finance Agency ("MIFA") and/or with funds to be loaned to the Developer by the BRA pursuant to the Urban Development Action Grant ("UDAG") program administered by the United States Department of Housing and Urban Development ("HUD"). In connection therewith, as of the date of this Agreement, the Developer has received "official action" from MIFA with respect to the issuance by MIFA of IRBs in the principal amount of Two Million Dollars ($2,000,000.00), has applied to MIFA for approval of additional IRBs, and an application for a UDAG in the amount of Nine Million Four Hundred Sixty-Six Thousand Dollars ($9,466,000.00) has been submitted to HUD by the City of Boston with respect to the Project. The BRA and the Developer hereby agree that in the event that any governmental agency, the approval of which is required in connection with the IRBs or the UDAG, does not give such approval within the times set forth in this Agreement for performance of the Developer's obligations pursuant to this Agreement including, without limitation, the obligations of the Developer pursuant to Paragraphs 2 and 11 hereof, such time for performance shall be

extended until such approvals have been obtained and for a reasonable time thereafter for the closing of the Leases and related financing transactions.

In the event that HUD rejects the application of the City of Boston for UDAG funds for the rehabilitation of Building 199, or in the event that MIFA is unable to issue IRBs for the rehabilitation of Building 199 as a result of amendments to the Internal Revenue Code of 1954, as amended, the BRA and the Developer shall, if necessary for the financing of the rehabilitation of Building 199, negotiate in good faith to alter the provisions of the Transaction Documents relating to the time and amount of base, percentage and/or additional rent for Buildings 149 and 199, to such terms and conditions as are reasonably acceptable to the BRA and the Developer. In the event that such alteration of provisions of the Transaction Documents is deemed necessary by the BRA and the Developer, the time for performance of the obligations of the Developer pursuant to Paragraphs 2 and 11 hereof, other than the obligation to pay rent set forth in Paragraph 2, shall be extended pending such negotiation.

11. Not later than the later of (i) one hundred and eighty (180) days from the execution hereof or (ii) sixty days following the date the BRA has approved or has been deemed to have approved the Contract Documents, in either case subject to extension by mutual agreement of the Developer and the BRA or by automatic extension pursuant to Paragraph 7 or Paragraph 10 of this Agreement, the Developer shall submit to the BRA a copy (certified by the Developer to be true and correct) of one or more commitments, issued by a lender or lenders which is an Institution as herein defined, whereby such lender(s) agrees to furnish construction financing or to purchase industrial revenue bonds issued to furnish such financing for the Improvements contained in the Design Materials (subject to such lender's approval of the Contract Documents), together with evidence, satisfactory to the BRA, of the availability of equity capital, which, when combined with the financing to be provided by such

lender(s) and/or UDAG funds to be loaned to the Developer by the BRA, is adequate to complete the Improvements and provide for all aspects of construction for the redevelopment of the Site (including any off-site improvements required by the Transaction Documents) in accordance with the Transaction Documents and this Agreement. Such commitment or commitments shall be accompanied by such further materials as the BRA may reasonably request evidencing satisfaction of, or the Developer's ability to satisfy, the conditions to lending therein set forth. "Institution" shall mean any one of the following:

a. a bank, insurance company, savings and loan association, trust company or a corporation, trust or association qualifying as a real estate investment trust under the provisions of Section 856 of the Internal Revenue Code (or like future provisions of such Code), chartered under the laws of The United States of America or any State thereof, and with a principal place of business in one of such States and a combined capital and surplus account (or, in the case of a mutual company, the equivalent thereof) or not less than $100,000,000;

b. an educational institution with a capital endowment of not less then $100,000,000; or

c. a pension fund established by and for any business corporation or corporations, or by and for any group of employees of a governmental body or of a religious or educational institution, or by and for any trade union, and, in each case, having a net worth, determined in accordance with recognized accounting practices, of not less then $100,000,000.

12. Whether or not the Lease Commencement Date shall already have occurred, before beginning any demolition or the construction of the Improvements on the Site, the Developer shall first have submitted to the BRA the following:

a. A copy (certified by the Developer to be true and correct) of the contract between the Developer and one or more general contractors or construction managers (hereinafter called the "Contractor") engaged by the Developer for the rehabilitation of the Improvements shown and described in the Contract Documents, together with a writing executed by the Contractor in which the Contractor undertakes to carry out all of the provisions hereof relat-

ing to the work to be performed by the Contractor and those engaged by it, including, but not limited to, the requirements of Paragraphs 16 and 17 below of this Agreement. Such contract and writing (or, in the case of "fast-track" construction of the Improvements, any construction contract related thereto, if it exists) shall be subject to the approval of the BRA which shall not be unreasonably withheld;

b. A copy of a building permit issued by the Boston Inspectional Services Department fully covering the Improvements, together with evidence satisfactory to the BRA that all fees in connection therewith have been paid. The Developer shall not apply for a building permit for the demolition or the construction of the Improvements without the prior certification of the BRA that the work to be done or completed as set forth in the permit application is in accordance with the Contract Documents approved by the BRA, provided, however, that plans and specifications for structural, electrical, mechanical or plumbing systems need not have been submitted to and approved by the BRA except to the extent that such systems impact the exterior elements of the Improvements; and

c. A copy of a performance and payment bond or other assurance of completion of the Improvements, as required by the Contract Documents.

13. The Developer shall at all times keep the BRA fully and currently advised of the status of all aspects of the Developer's progress in meeting the terms and provisions of the Transacition Documents and this Agreement with respect to the redevelopment of the Site, including, without limiting the generality of the foregoing, development of the Design Materials, securing financing, and arrangements for construction. All contracts entered into by the Developer under this Agreement respecting the redevelopment of the Site shall obligate the parties thereto to act in a manner consistent with the obligations of the Developer under the Transaction Documents and this Agreement and the Lease or Leases. During the implementation of any such contracts, the BRA shall have the right to reveiw all aspects of the work performed thereunder in order to insure that such work is being undertaken in a manner consistent with the Contract Documents and this Agreement.

14. Attached hereto as Exhibit D to this Agreement is a License dated of even date herewith granted by the BRA to the Developer (the "License"). The Developer hereby agrees to perform and observe all the terms and conditions of the License. The Developer shall make available to the BRA the results of all tests, surveys and examinations resulting from its entry upon the Site.

In the event this Agreement shall be terminated for any reason other than the failure of the BRA to perform its obligations hereunder, then the Developer will turn over and cause others to turn over to the BRA all reports, test data, plans and other material developed in connection with its efforts hereunder relative to redevelopment of the Site or any part thereof. The Developer agrees to use best efforts to secure the agreement of its providers of services so that the BRA (or others to whom the BRA may at any time transfer all or any part of such material) shall thereafter be free, without obtaining the consent of the Developer or the provider of any such services and without liability or cost, to use material turned over to it or required to be turned over to it; provided, however, that prior to any such transfer, the BRA shall release and indemnify the Developer and all such providers of services from and against any and all liabilities, claims, damages or demands, of every name and nature arising out of the use of such materials by the BRA or any such others.

15. The Developer agrees that all studies undertaken by it and all work done by it for or with respect to the redevelopment of all or any part of the Site prior to the Lease Commencement Date shall be at its sole cost and expense and without liability to the BRA, that the same shall be undertaken in compliance with all applicable laws and regulations and that the Site shall be restored to its prior condition, to the extent reasonably possible, after any physical disruption to the surface or subsurfance thereof in the course of any pre-construction testing or exploration if the Lease or Leases is not executed.

16. The Developer for itself and all successors and assigns, agrees that in the redevelopment of the Site and in all construction activity undertaken therein:

a. The Developer will not discriminate against any employee or applicant for employment because of race, color, sex, religion, age or national origin. The Developer will take affirmative action to ensure that qualified applicants

are employed, and that employees are treated during their employment, without regard to their race, color, religion, sex, age or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or compensation, and selection for training, including apprenticeship. The Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause;

b. The Developer will, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age or national origin;

c. The Developer will send to each labor union or representative of workers with which the Developer has a collective bargaining agreement or other contract or understanding, a notice, to be provided, advising the said labor union or workers' representative of the Developer's commitments under Section 202 of Executive Order #11246 of September 24, 1965, as amended,* and shall post copies of the notice in conspicuous places available to employees and applicants for employment;

d. The Developer will comply with all provisions of Executive Order #11246 of September 24, 1965 as amended,* and of the rules, regulations, and relevant orders of the Secretary of Labor;

e. The Developer will furnish all information and reports required by Executive Order #11246 of September 24, 1965, as amended,* and by the rules, regulations, and orders of the Secretary of Labor, pursuant thereto, and will permit access to the Developer's books, records, and accounts by the BRA, the Secretary of Housing and Urban Development, and the Secretary of Labor, for purposes of investigation to ascertain compliance with such rules, regulations and orders;

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*Executive Order #11246 of September 24, 1965 as amended by Executive Order #11735 of October 13, 1967

f. In the event of the Developer's noncompliance with the nondiscrimination clauses of this Paragraph 16, or with any of said rules, regulations, or orders, upon written notice to the Developer, and the continuance of such noncompliance for sixty (60) days thereafter, this Agreement may be terminated or suspended in whole or in part by the BRA. In addition, the Developer may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order #11246, of September 24, 1965, as amended,* or by rules, regulations or orders of the Secretary of Labor, or as otherwise provided by law; and

g. The Developer will include the provisions of subparagraphs a. through f. of this Paragraph 16 in every contract or purchase order, and will require the inclusion of these provisions in every subcontract entered into by any of its contractors, unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order #11246 of September 24, 1965, as amended,* so that such provisions will be binding upon each such contractor, subcontractor, or vendor as the case may be. The Developer will take such reasonable action with respect to any construction contract, subcontract, or purchase order as the BRA directs as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event the Developer becomes involved in or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the BRA, the Developer may request the United States to enter into such litigation to protect the interest of the United States.

17. The Developer, for itself and its successors and assigns, further agrees, to the extent permitted by law, that in all construction activity undertaken with respect to the Site, it will pursue the efforts hereinafter described with a goal to employ workers in construction so that the worker hours, on a craft-by-craft basis, shall be performed as follows:

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*Executive Order #11246 of September 24, 1965 as amended by Executive Order #11735 of October 13, 1967

a. at least 50% by bona fide City of Boston residents;

b. at least 25% by minorities; and

c. at least 10% by women.

Such efforts consist of the following:

i. The Developer shall incorporate in every general construction contract or construction management agreement an enumeration of the foregoing worker hour goals and shall impose a responsibility upon the Contractor to pursue the efforts enumerated in this Paragraph 17 and to incorporate such worker hour goals in all subcontracts and impose upon all subcontractors the obligation to pursue such efforts;

ii. Each of the BRA, the Developer, the Contractor, and each subcontractor shall designate an individual to serve as affirmative action officer for the purpose of carrying out the efforts to achieve worker hour goals set forth herein;

iii. Contemporaneously with the start of construction, the affirmative action officers and other interested representatives of the BRA, the Developer, the Contractor, and each subcontractor then selected shall hold a pre-job conference with appropriate union representatives of the construction trade unions for the purpose of reviewing the worker hour goals applicable to the Project and the manning requirements for construction activity over the life of the construction period;

iv. Each request for qualified construction workers made by any person involved in the construction of the Project to a union hiring hall or business agent shall contain a recitation of such worker hour goals and a request that qualified referees for construction positions on the Project be selected in the same proportion as such goals; provided, however, that if at the time of any such manning request the requesting party's workforce composition falls short of any one or more of such goals, such manning request shall seek qualified referees in such proportion among such categories as would be necessary to more fully achieve such goals. In the event that the union hiring hall or business agent to which or whom such a manning request has been submitted fails to comply with such request, the affirmative action officer of such requesting party shall seek to verify that insufficient workers in the categories specified in such request are then

shown on the unemployed list maintained by such union hiring hall or business agent by seeking to obtain an affidavit from the union hiring hall representative or business agent to such effect. Copies of any affidavit so obtained shall be forwarded to the affirmative action officer of the BRA;

v. All persons applying directly to the Contractor, or subcontractor for employment in construction on the project who are not employed by the party to whom application is made will be referred to the affirmative action officer of the BRA and a written record of such referral shall be made, a copy of which shall be sent to such officer; and

vi. Each Developer, the Contractor, and each subcontractor shall maintain records reasonably necessary to ascertain compliance with the requirements of this Paragraph 17 for at least one year after the Completion Date and will make the same available for inspection by the BRA upon reasonable notice.

18. The parties acknowledge and agree that any Institution approved by the BRA and involved in the development of the Site with the Developer as leasehold mortgagee, may require modifications to the form of the Lease or Leases for the purpose of implementing the mortgagee protection provisions thereof or otherwise facilitating the financeability of such Leases. The BRA agrees not to withhold unreasonably its agreement to enter into such requested modifications provided that, in the sole opinion of the BRA, the same shall in no way affect the term or rent (base, percentage or additional) or otherwise in any material respect adversely affect any of the rights or interests of the BRA under the Lease or Leases. Without limitation, before giving any such agreement, the BRA may require reasonable changes to any proposed modification.

19. The Developer hereby agrees to defend, indemnify and hold harmless the BRA, its members, officers and employees from and against all claims, costs, fees, expenses, liablities and damages (including attorneys' fees and costs of investigation and litigation) whatsoever which may be incurred or for which liability may be asserted as the result of any activities undertaken by or for the Developer in its implementation of this Agreement or its activities with respect to the Site, but such indemnification shall not extend to liability asserted as a result of any activity undertaken by or for the BRA in implementing its obligations hereunder.

20. If the Developer shall neglect or fail to perform or observe any obligation herein contained to be performed or observed on the part of the Developer and the BRA shall serve upon the Developer notice of such neglect or failure and if the same shall not be cured within thirty (30) days of notice thereof, or, if the same shall not be capable of being cured within such thirty (30) day period, the Developer shall fail to commence such cure within thirty (30) day period and diligently prosecute the same to completion, or the Lease or Leases shall not, for whatever reason, other than failure of the BRA to act in good faith with respect to the negotiation and execution thereof, be executed within two (2) years from the date of execution hereof, the BRA may at any time thereafter upon further notice, terminate this Agreement and rescind the tentative designation of the Developer and terminate all other rights, interests and claims of the Developer to and in the Site. Except with respect to those obligations which survive termination as provided in the following sentence, termination of this Agreement, together with retention of all payments theretofor made pursuant to the Transaction Documents and this Agreement shall be the sole remedy in lieu of all of the rights and remedies the BRA may have against the Developer on account of any failure or default on the part of the Developer hereunder. Notwithstanding such termination, the Developer shall remain liable for all obligations theretofore accrued by it hereunder and the obligations of the Developer under Paragraphs 14, 15 and 19 hereof shall survive the termination of the Agreement, but otherwise the Developer's obligations shall not survive termination.

21. a. Time is of the essence in the performance of this Agreement, and the parties hereto shall diligently, promptly and punctually perform the obligations required to be performed by each of them and shall diligently, promptly and punctually fulfill the conditions applicable to each of them.

b. The waiver of the BRA or the Developer of any breach of any term of condition herein contained shall not be deemed to be a waiver of such term or condition or any subsequent breach of the same or any other term or condition herein contained.

c. Recognizing that the parties may find it necessary to establish to third parties the then current status of performance hereunder, either party, on the written request of the other made from time to time, will promptly furnish a written statement

on the status of any matter pertaining to this Agreement within a reasonable time.

d. If any term or provision of this Agreement, or the application thereof to any persons or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby. Each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

e. No member of the Congress of the United States of America shall be admitted to any share or part hereof, or to any benefit to arise from this Agreement. No member, official, or employee of the BRA shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his or her personal interest or the interests of any corporation, partnership, or association in which he or she, directly or indirectly holds an "interest" as that term is defined in M.G.L. Chapter 268A.

f. No member, official or employee of the BRA shall be personally liable to the Developer in the event of any default or breach by the BRA or for any amount which may become due to the Developer or on any obligations under the terms of this Agreement.

g. Except as otherwise specifically provided in this Agreement, whenever under this Agreement approvals, authorizations, determinations, satisfactions or waivers are required or permitted, such approvals, authorizations, determinations, satisfactions or waivers and shall be effective and valid only when given in writing signed by a duly authorized officer of the BRA or the Developer. Any notice required or desired to be given pursuant to this Agreement shall be in writing with copies directed as indicated below and shall be personally served, or, in lieu of personal service, service may be made by depositing same in the United States mail, postage prepaid, certified or registered mail. If such notice shall be addressed to the BRA, the address of the BRA is:

Boston Redevelopment Authority
One City Hall Square
9th Floor
City Hall
Boston, Massachusetts 02110

and if addressed to the Developer, the address of the Developer is:

The Congress Group, Inc.
Russia Wharf
286 Congress Street
Boston, Massachusetts 02109

with copies to:

Myrna Putziger, P.C.
McCormack & Zimble
225 Franklin Street
Boston, Massachusetts 02110

Either the BRA or the Developer may change its respective address by giving written notice to the other in accordance with the provisions of this Paragraph.

Any request for approvals made by the Developer to the BRA where such approvals shall be deemed granted after a period of non-reply by the BRA shall, as a condition to the effectiveness thereof, be prefaced with the following language printed in capital letters in bold face type in each instance setting forth the applicable length of such period of nonreply:

"NOTICE

THIS REQUEST FOR APPROVAL REQUIRES IMMEDIATE REPLY

FAILURE TO RESPOND WITHIN _____ DAYS

SHALL RESULT IN AUTOMATIC APPROVAL"

h. Nothing herein shall constitute the relation between the parties hereto to be other than an independent one, it being their intent that this Agreement shall not constitute a partnership or a joint venture.

i. Upon execution of the Leases as required hereby, this Agreement shall terminate, provided that the provisions of Paragraphs 4, 5, 6, 7d through 7h, 8, 11, 16, 17, 21 and 22 hereof shall survive such termination of this Agreement.

j. In its discretion, the BRA may waive any conditions herein contained to be performed for its benefit.

k. The rights and obligations of the parties hereto shall be binding upon and shall inure to the benefit of the respective successors and assigns (in case of the Developer to the extent any such assignment is herein permitted) of the parties hereto. The BRA shall not unreasonably withhold its consent to any assignment by the Developer of some or all of its rights or obligations hereunder to (i) any limited partnership of which The Congress Group, Inc. or its principals, and Constitution Investing Corporation, a Massachusetts corporation, are general partners, (ii) and any entity controlled by The Congress Group, Inc., or its principals, and said Constitution Investing Corporation or under (iii) any entity under the common control with the Developer formed for the purpose of owning or operating portions of the Improvements described herein.

22. No principal, general partner or limited partner of the Developer shall have any personal liability for the obligations of the Developer under this Agreement.

23. The Developer acknowledges that the Improvements are comprised in part of uses described in Section 26-3 of Article 26 of the Boston Zoning Code as in effect on the date hereof (the "Linkage Provisions"), and that the aggregate floor area of the Improvements dedicated to such uses exceeds 100,000 square feet. Accordingly, the Improvements constitute a Development Impact Project as defined in the Linkage Provisions. The Developer agrees that in connection with its application for zoning relief pursuant to the Boston Zoning Code it will enter into a Development Impact Project agreement, on terms and conditions to be agreed upon between the parties hereto, for the payment of the Development Impact Project Exaction required pursuant to the Linkage Provisions.

24. The BRA represents that the BRA is considering the establishment of a fund for maintenance of public parks in the Charlestown Navy Yard. The BRA and the Developer agree that if such a fund is established by the BRA and contributions are uniformly required from all nonresidential buildings within the

Charlestown Navy Yard, the Lease or Leases will provide for contributions to the fund by the Developer in accordance with the provisions of such fund.

WITNESS the execution hereof on this _____ day of _____, 1984, under seal.

APPROVED AS TO FORM:

_____
Chief General Counsel
BRA

BOSTON REDEVELOPMENT AUTHORITY

BY_____
Director

THE CONGRESS GROUP, INC.

BY_____
Title:_____

LIST OF EXHIBITS

A. BRA Tentative Designation, December 28, 1983

B. Transaction Documents

C. Design Review Procedure

D. License

MEMORANDUM

DECEMBER 22, 1983 - TABLED
RESUBMITTED DECEMBER 28, 1983 Approved

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ROBERT J. RYAN, DIRECTOR

SUBJECT: CHARLESTOWN URBAN RENEWAL PROJECT (R-55)
TENTATIVE DEVELOPER: DESIGNATION OF THE CONGRESS GROUP, INC., REDEVELOPER OF BUILDINGS 149 & 199 IN THE CHARLESTOWN NAVY YARD

The Authority has received three development proposals for the above properties for the purpose of rehabilitating Building 149 into commercial space and converting Building 199 into a parking garage. On November 25, 1981, the Authority approved at no cost, an exclusive agreement with Coldwell Banker which allowed them to solicit developer interest for these properties. The Congress Group's proposal is an outgrowth of this action. Building 149 contains approximately 720,000 sq.ft. and Building 199, 600,000 sq.ft.

The proposals were reviewed in accordance with established criteria for the development of the Navy Yard, including an assessment of the developer's experience, a financing Letter of Interest, the developer's financial strength aside from Lender, the BRA lease payment offer, the need to maximize parking to Yard users and to maximize employment opportunities, the project's overall financial feasibility with emphasis on projected costs and income, and finally, confidence in the developer's ability to expeditiously complete the project.

The Congress Group Incorporated, best meets the established development criteria. This organization is principally comprised of Edward F. Barry Jr., President, John W. Priestley Jr., Vice President and Dean F. Stratouly, Vice President. Since 1976 the Congress Group has been responsible for completing 330,000 sq.ft. at 77 North Washington Street. They are presently completing construction of 250,000 sq.ft. of office space in the former Carter Ink Building in Cambridge.

This development team has agreed to meet the following guidelines: rehabilitate Building 149 into approximately 700,000 sq.ft. of commercial space with appropriate retail uses on the ground floor; convert Building 199 into a parking garage to accommodate a minimum of 1,200 car spaces, 700 of which shall be reserved for the exclusive use of Building 149's tenants and 500 shall be reserved to service the anticipated commercial needs in the Navy Yard. The demand for these spaces will be generated through the projected redevelopment of Buildings 33, 34, 38, 39 and 108.

It is expected that the BRA will receive $500,000 in annual lease payments for these buildings plus 15% of the net income. The City of Boston can expect to receive up to $750,000 per year in real estate taxes through this development. In addition, the City's Residents Job Policy will be enforced.

Importantly, the redevelopment of Building 149 into a commercial structure with over 2000 employees will help support the market for retail enterprise throughout the Yard. The construction of a 1,200 car parking facility will greatly enhance the marketability of the undeveloped buildings in the Navy Yard and accelerate developer's interest in them.

It is therefore recommended that the Congress Group, Incorporated, be tentatively designated as redeveloper of Buildings 149 and 199 in the Charlestown Navy Yard (R-55) subject to the terms and conditions set forth in the document attached hereto entitled, "Terms and Conditions for Tentative Developer Designation Buildings 149 and 199 in the Charlestown Navy Yard"; such terms and conditions are incorporated into this recommendation by reference.

VOTED: That the Authority tentatively designate the Congress Group Incorporated as redeveloper of Buildings 149 and 199 in the Charlestown Navy Yard (R-55) subject to the terms and conditions as set forth in the document dated December 22, 1983 attached hereto entitled, "Terms and Conditions for Tentative Developer Designation Buildings 149 and 199 in Charlestown Navy Yard"; and said designation is subject to all easements of record as well as the terms and conditions of the Charlestown Urban Renewal Plan and the Deed from the United States Government concerning these properties.

It is expected that the BRA will receive $500,000 in annual lease payments for these buildings plus 15% of the net income. The City of Boston can expect to receive up to $750,000 per year in real estate taxes through this development. In addition, the City's Residents Job Policy will be enforced.

Importantly, the redevelopment of Building 149 into a commercial structure with over 2000 employers will help support the market for retail enterprise throughout the Yard. The construction of a 1,200 car parking facility will greatly enhance the marketability of the undeveloped buildings in the Navy Yard and accelerate developer's interest in them.

It is therefore recommended that the Congress Group, Incorporated, be tentatively designated as redeveloper of Buildings 149 and 199 in the Charlestown Navy Yard (R-55) subject to the terms and conditions set forth in the document attached hereto entitled, "Terms and Conditions for Tentative Developer Designation Buildings 149 and 199 in the Charlestown Navy Yard"; such terms and conditions are incorporated into this recommendation by reference.

VOTED: That the Authority tentatively designate the Congress Group Incorporated as redeveloper of Buildings 149 and 199 in the Charlestown Navy Yard (R-55) subject to the terms and conditions as set forth in the document dated December 22, 1983 attached hereto entitled, "Terms and Conditions for Tentative Developer Designation Buildings 149 and 199 in Charlestown Navy Yard"; and said designation is subject to all easements of record as well as the terms and conditions of the Charlestown Urban Renewal Plan and the Deed from the United States Government concerning these properties.

DECEMBER 22, 1983

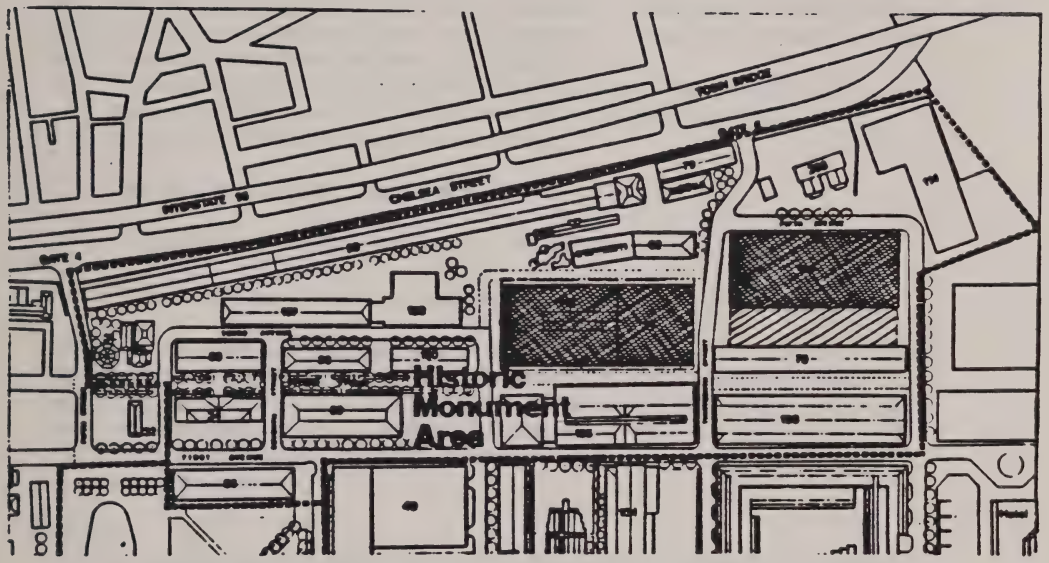
TERMS AND CONDITIONS FOR TENTATIVE DESIGNATION OF THE DEVELOPER FOR BUILDING 149/199

1. LEASEHOLD AGREEMENT

Developer will lease Buildings 149 and 199 from BRA for an 80 year term at a base rent of $500,000 per year and 15% of net income. Leasehold Agreement summary is attached hereto.

2. REDEVELOPMENT SITE

The redevelopment site shall include the area outlined in the map below. Buildings 149 and 199 are located in the Historic Monument Transfer Area of the Charlestown Navy Yard. The land area between Buildings 199 and 75 will be included in the redevelopment site to accommodate the exterior circulation ramps needed to provide egress and access to the parking garage.



3. DEVELOPMENT PROGRAM

a. Building 149 shall be rehabilitated into 720,000 square feet of commercial space. Appropriate retail uses shall be located on the ground floor and will be delineated in the final leasehold agreement.

b. Building 199 shall be converted into a parking garage to accommodate a minimum of 1200 car spaces; 700 of these spaces shall be reserved for the exclusive use of Building 149 tenants and retail clients; 500 of these spaces shall be reserved by the BRA to service the commercial needs of the Navy Yard.

4. CONSTRUCTION PHASING

The Authority requires that construction of both buildings commence in concert and be completed in a single phase.

5. UDAG ASSISTANCE

a. The City of Boston and the BRA will work with the developer to apply for Urban Development Actions Grant (UDAG) funds as may be necessary to make this redevelopment project financially feasible.

b. The developer shall work with the City and BRA to obtain UDAG funds as may be necessary to complete public improvements pertinent to the redevelopment of these buildings.

6. DESIGN REVIEW PROCESS

The Authority requires submission of design drawings for review and approval at four phases in the design review process in accordance with Rehabilitation Guidelines for Historic Monument Transfer Area in Charlestown Navy Yard and requirements normally followed by the architectural profession and the Authority:

a. Schematic Design Drawings including site plan, buildings plans, elevations and sections written description of the project and perspective sketches;

b. Design Development Drawings;

c. Preliminary Working Drawings and Outline Specifications;

d. Final Working Drawings and Specifications.

This design review process will include the Authority review of all materials and procedures used in historic preservation of the building exteriors in accordance with The Rehabilitation Guidelines and Preservation Briefs, and shall include review and approval of all changes from the approved drawings that may occur during the construction period.

7. LINKAGE

The developer shall comply with the linkage policies as presented in the report of the Advisory Group on Linkage Between Downtown Development and Neighborhood Housings, issued on October 14, 1983.

8. REAL ESTATE TAXES

Real Estate taxes for the new development will be paid according to normal City of Boston Chapter 59 Assessing Department practices.

BUILDING 149/199 LEASE COMMENCEMENT AGREEMENT SUMMARY

Within 90 days of Tentative Designation, the designated developer and the Boston Redevelopment Authority (BRA) will enter into a Lease Commencement Agreement containing the conditions of Final Designation. The Lease Commencement Agreement will also contain a Building Lease, based on the terms and conditions specified below, which will become effective upon Final Designation.

PROPERTY:	Building 149 and 199, as designated by Lessor
LESSOR:	Boston Redevelopment Authority
LESSEE:	The Congress Group
TERM:	80 years
FINAL DESIGNATION:	Not more than 180 days from the execution of the Lease Agreement, subject to extension by mutual agreement of Lessor and Lessee.
LEASE COMMENCEMENT DATE:	Simultaneous with Final Designation.
NET RENT:	A. Base Rent - $500,000 per annum payable monthly in advance, commencing at the Lease Commencement Date. B. Percentage Rent - 15% of annual net cash flow payable monthly in advance based on a budget prepared annually and submitted to Lessor not less than 60 days prior to the beginning of each fiscal year. Annual net cash flow shall be calculated by subtracting the following items from effective gross income: certified operating expenses, real estate taxes, Base Rent, and annual amount equal to 12.5% of certified total project costs. Within 90 days of the end of each fiscal year Lessee shall submit a calculation of Percentage Rent for that year certified by a CPA acceptable to Lessor and shall make a payment or receive a credit of Percentage Rent based on the certified statement. Until the annual Percentage Rent amount is certified, and payments and credits are allocated, the monthly Percentage Rent payment in any fiscal year shall be no less than one-twelfth of the fiscal year.
RENEWAL:	None

SUBORDINATION:	Lessor's fee interest in the Property will not be subordinated. Lessor's Base Rent will not be subordinated. Percentage Rent will not be subordinated. In the event of a foreclosure, the Lessor will waive Percentage Rent for five years if Net Cash Flow is not available.
FINANCING:	Any initial permanent financing may not exceed certified total project costs.
REFINANCING:	Lessor will receive as Additional Rent 15% of net refinancing proceeds upon refinancing.
SALE:	Lessor will receive as Additional Rent 15% of net sales proceeds upon sale.
ALIENATION:	Lessee may not dispose of its interest in the Commercial Portion for five years after issuance of a final certificate of occupancy. Thereafter, Lessee may not dispose of its interest in the Commercial Portion without the written consent of Lessor, such consent not to be unreasonably withheld.
ESTOPPEL CERTIFICATE:	Lessor agrees to provide any lender that notifies the Lessor of its mortgage interest with an Estoppel Certificate granting such lender notice of default and right to cure as may reasonably be required.
CONSTRUCTION OF IMPROVEMENTS:	Lessee must make improvements on the Property in accordance with plans and specifications approved by Lessor as part of Lessee's Final Designation within 36 months of such Designation.
BOOKS AND RECORDS:	Lessee must provide Lessor with a statement of project costs computed in accordance with the Land Lease, certified by a CPA, and approved by the Lessor, within 120 days of issuance of a final certificate of occupancy. Lessor will use industry standards as a guide to Lessor's approval. In addition to the reports required for the Percentage Rent calculation, Lessee must provide Lessor with a statement of operation for the Commercial Portion certified by a CPA, and approved by the Lessor, within 90 days of the close of each fiscal year. Lessor will use industry standards as a guide to Lessor's approval.
AFFIRMATIVE ACTION:	Lessee must comply with the Mayor's Executive Order concerning Affirmative Action goals for construction employment, permanent employment and minority business contracting. The Lessor will assist the Lessee in meeting these goals.

REAL ESTATE TAXES:	The Property will be fully taxable by the Assessor of the City of Boston at applicable rates.
LIABILITY:	Lessor and the City of Boston will not incur any expenses in the development of the Property. The Property will be leased in an "as is" condition. Lessee will pay for the cost of any utility relocation not paid by any utility company.
PARKING:	A minimum of 1200 car spaces will be provided in Building 199 of which 700 spaces will be reserved for Building 149's tenants and 500 spaces will be reserved for commercial needs at the Navy Yard.

EXHIBIT C

DESIGN REVIEW PROCEDURES

CITY OF BOSTON
Raymond L. Flynn, Mayor

BOSTON REDEVELOPMENT AUTHORITY
Robert L. Farrell, Chairman
Joseph J. Walsh, Vice-Chairman
James K. Flaherty, Treasurer
Clarence J. Jones, Vice-Treasurer
William A. McDermott, Jr., Member
Kane Simonian, Secretary
Robert J. Ryan, Director

TABLE OF CONTENTS

BRA Design Review Procedure	1
Submission Requirements	2
Schematic Design	2
Design Development	3
Contract Documents	4
Construction Inspection	5

BOSTON REDEVELOPMENT AUTHORITY DESIGN REVIEW PROCEDURE

All development proposals submitted to the Boston Redevelopment Authority will be subject to design review and approval. Required submissions shall be made at four stages of project design and construction: Schematic Design, Design Development, Contract Documents, and Construction Inspection. Submissions shall include the materials described herein, except that for projects of limited size, scope and impact on their surroundings, certain of the required materials may be waived by the Authority. This determination will be made at the start of each stage of the Design Review Procedure.

In addition to the four-stage Design Review Procedure, other reviews at the request of either the developer or the Authority are encouraged. It is also expected that reasonable requests for progress prints and other materials in addition to those required herein will be met at any time.

Review of Stages 2, 3 and 4 will be limited to consideration of design refinements, new elements not present in previous submissions, and conformity with previously approved submissions.

NOTE: In addition to design review and approval, projects under consideration by the Boston Redevelopment Authority are usually required to submit the following information: (a) documentation of developer experience, (b) financial information including pro-formas, (c) environmental analyses, and (d) any other information deemed appropriate by the Authority.

DESCRIPTION OF SUBMISSION REQUIREMENTS

All drawings shall be clearly identified and shall include north arrow and graphic scale.

For each submission stage, in addition to full-size scale drawings, please provide three copies of a bound booklet containing all submission materials at a reduced size.

I. SCHEMATIC DESIGN

The intent of this review is to secure agreement on the basic design concept. The following materials are required:

A. Written description of the project including all program elements and space allocation for each element; zoning requirements and preliminary zoning calculations.

B. Neighborhood plan and sections at an appropriate scale (1" = 50' or larger) showing relationships of the proposal to the neighborhood's massing, building height, scaling elements, open space, major topographic features, pedestrian and vehicular circulation, and land use; black and white 8" x 10" photographs of the site and neighborhood.

C. Site plan at an appropriate scale (1" = 20' or larger) showing:

1. General relationships of proposed and existing adjacent buildings and open space. Open spaces defined by buildings on adjacent parcels and across streets shall be included.

2. General location of pedestrian ways, driveways, parking, service areas, streets, and major landscape features.

3. Pedestrian and vehicular (including service) access and flow through the parcel and to adjacent areas.

4. Survey information, such as existing elevations, benchmarks, utilities, etc.

5. Current ownership (including purchase options) of all portions of the development site.

6. Phasing possibilities, if any.

7. Construction limits, if applicable.

D. Site sections (1" = 20' or larger) showing relationships to adjacent buildings and spaces.

E. Schematic building plans showing ground floor and typical upper floor(s).

F. Massing model at 1" = 100' for use in the Authority's downtown cityscape model.

G. Shadow studies showing the effects of the proposed massing on the surrounding area with particular attention to nearby public spaces including sidewalks, parks, and plazas.

Submission of site plan and massing options, as well as other sketches and diagrams which will help clarify design issues and the proposed solution is encouraged. After review and agreement on the program, site plan and massing, the following materials are required:

H. Building and site improvement plans, elevations in the context of the surrounding area, and sections showing organization of functions and spaces, all at an appropriate scale (e.g., 1" = 8'). These drawings shall describe architectural massing, facade design, and proposed materials.

I. Site model at an appropriate scale (1" = 20' or larger). All nearby buildings and streets should be included to illustrate the relationship of proportions, materials and facade treatment to the surrounding buildings.

J. Wind impact studies at pedestrian levels describing the effect of the project on the surrounding area with particular attention to nearby public spaces including sidewalks, parks, and plazas.

K. Estimated construction schedule for the project.

L. Eye-level perspective showing the proposal in context of the surrounding area.

M. Proposed schedule for submission of Design Development materials.

Upon approval by the Authority of the SCHEMATIC DESIGN, the following submission is required:

II. DESIGN DEVELOPMENT

The intent of this review is to secure agreement on the final design prior to detailed work on Contract Documents. The following materials are required:

A. Written description of the project (including all program elements and space allocation for each element) and zoning calculations.

B. Site plan at an appropriate scale (e.g., 1" = 16' or as determined after approval of SCHEMATIC DESIGN) showing:

1. Relationship of proposed building and open space to existing adjacent buildings, open spaces, streets, and buildings and open spaces across streets.

A. Written description of the project, (including all program elements and space allocation for each element) and zoning calculations.

B. Site plan showing all site development and landscape details for lighting, paving, planting, street furniture, utilities, grading, drainage, access, service, and parking.

C. Complete architectural and engineering Drawings and Specifications.

D. Full-size assemblies (at the project site) of exterior materials and details of construction.

E. Eye-level perspective drawings or presentation model that accurately represents the project, and a rendered site plan showing all adjacent existing and proposed structures, streets and site improvements.

F. Site and building plan at 1" = 100' for Authority use in updating its 1" = 100' Photogrammetric Map Sheets.

G. Construction schedule for the project.

During preparation of the Contract Documents, it is the developer's responsibility to notify the Authority, promptly and secure its approval of all changes from the approved Design Development Drawings that are contemplated for site improvements, exterior facades, roofscape and interior public spaces. Progress Drawings representing 50% completion of the Contract Documents may be required for review by the Authority.

Upon approval by the Authority of the CONTRACT DOCUMENTS, the following submissions are required:

IV. CONSTRUCTION INSPECTION

A. All Contract Addenda, Change Orders, and other modifications and revisions of approved Contract Documents which affect site improvements, exterior facades, roofscape, and interior public spaces.

B. Shop drawings of architectural components which differ from, or were not fully described in Contract Documents.

Site visits will be conducted to insure construction of the project in accordance the approved Contract Documents.

EXHIBIT D

LICENSE

BOSTON REDEVELOPMENT AUTHORITY

TO

THE CONGRESS GROUP, INC.

THE BOSTON REDEVELOPMENT AUTHORITY, herein called the "Authority" does hereby authorize and permit THE CONGRESS GROUP, INC., Boston, Massachusetts, its officers, employees, agents and servants, herein called the "Licensee", to enter upon certain premises of the Authority, situated within the Project Area in the City of Boston, for purposes of the following:

To inspect and perform test on the building foundation walls and structures on Buildings 149 and 199 in the Charlestown Navy Yard, in the Charlestown Urban Renewal Area.

This License is subject to the following terms and conditions:

1. The License may be revoked at any time by the Authority.

2. The Licensee agrees to obtain the following insurance, naming the Authority as co-insured and furnish proof of such insurance:

a) Workmen's Compensation.

b) General liability insurance for bodily injury of limited not less than $1,000.00 for one person and subject to a limit of $3,000.00 for one accident; and also property damage liability of not less than $100,000.00 each accident.

c) Automobile liability insurance in the event automobiles, etc., are used in connection with performance under the License. This insurance should provide bodily injury limits as required (b) above and also property damage liability of not less than $100,000.00 for each accident.

3. The licensee shall, if the work requires occupancy of a public street or alley, obtain required permits from the City of Boston before proceeding with such work.

4. The Licensee agrees to pay, indemnify and save harmless the Authority from all suits, actions, claims, damages, demands or losses, expenses and costs of every kind and description to which the Authority may be subjected or sustain by reason of the work herein licensed, or by reason of any neglect or act of the Licensee, its agents, servants, employees, visitors, guests, or any person or corporation dealing with the Licensee in any way in the occupancy or the use of the Property.

5. The Authority shall not be bound to reimburse the Licensee, its agents, employees, contractors or subcontractors for any funds expended on the work hereby licensed.

6. The Licensee shall not permit, commit, nor suffer waste or impairment of the property.

7. The Licensee shall adhere to all provisions of codes and ordinances of the City of Boston and the Commonwealth of Massachusetts.

8. The Licensee may assign its rights and obligations under this Agreement to Constitution Office Park Associates Limited Partnership and/or Navy Yard Parking Associates Limited Partnership, limited partnerships to be formed pursuant to Massachusetts General Laws Chapter 109 of which the Licensee shall be a General Partner.

IN WITNESS WHEREOF, on the day of , 1984, at Boston, Massachusetts, the parties hereto have caused this License in three counterparts to be signed, sealed and delivered by their duly authorized officers, respectively.

BOSTON REDEVELOPMENT AUTHORITY

BY_____
Robert J. Ryan, Director

THE CONGRESS GROUP, INC.

BY_____
Title_____